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MARK DILLON, TERESA NOA, MELVIN PONCE,  
SONIA PURDY, JUSTIN FUKUMOTO,  
ALFREDDA WAIOLAMA, and JACQUELINE RIO

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

WAYNE BERRY, a Hawaii citizen,	)	CIVIL NO. CV03-00385 SOM-LEK
	)	(Copyright)
Plaintiff,	)	
	)	DEFENDANTS MARK DILLON, TERESA
v.	)	NOA, MELVIN PONCE, SONIA
	)	PURDY, JUSTIN FUKUMOTO,
HAWAIIAN EXPRESS SERVICE,	)	ALFREDDA WAIOLAMA, AND
INC., a California	)	JACQUELINE RIO'S MEMORANDUM IN
corporation; H.E.S.	)	RESPONSE TO PLAINTIFF WAYNE
TRANSPORTATION SERVICES, INC.,	)	BERRY'S MOTION IN LIMINE TO
a California corporation;	)	EXCLUDE EVIDENCE OF THE
CALIFORNIA PACIFIC	)	LOCATION OF ATLANTIC PACIFIC
CONSOLIDATORS, INC., a	)	INTERNATIONAL, INC'S BUSINESS
California corporation;	)	RECORDS
JEFFREY P. GRAHAM and PETER	)	
SCHAUL, California citizens;	)	
MARK DILLON and TERESA NOA,	)	<u>Hearing:</u>
BRIAN CHRISTENSEN, Hawaii	)	
citizens; FLEMING COMPANIES,	)	Date: January 20, 2006
INC., an Oklahoma corporation;	)	Time: 2:00 p.m.
C & S LOGISTICS OF HAWAII,	)	Judge: Hon. Susan Oki
LLC, a Delaware LLC; C & S	)	Mollway
WHOLESALE GROCERS, INC., a	)	
Vermont corporation; C & S	)	[caption continued on next
ACQUISITIONS, LLC; FOODLAND	)	page]
SUPER MARKET, LIMITED, a	)	
Hawaii corporation; HAWAII	)	

TRANSFER COMPANY, LIMITED, a )  
Hawaii corporation; RICHARD )  
COHEN, New Hampshire citizen; )  
ES3, LLC, a Delaware Limited )  
Liability Company, MELVIN )  
PONCE, SONIA PURDY, JUSTIN )  
FUKUMOTO, ALFREDDA WAIOLAMA, )  
JACQUELINE RIO, Hawaii )  
citizens; JESSIE GONSALVES, )  
LUIZ RODRIGUES, AL PEREZ and )  
PATRICK HIRAYAMA, California )  
citizens; GUIDANCE SOFTWARE, )  
LLC, a California LLC; MICHAEL )  
GURZI, a California citizen; )  
ALIX PARTNERS, LLC, a Delaware )  
LLC; DOE INDIVIDUALS 2-350; )  
DOE PARTNERSHIPS, CORPORATIONS )  
and OTHER DOE ENTITIES 2-20, ) Trial: January 24, 2006  
) )  
Defendants. )  
\_\_\_\_\_ )

**DEFENDANTS MARK DILLON, TERESA NOA, MELVIN PONCE, SONIA PURDY,  
JUSTIN FUKUMOTO, ALFREDDA WAIOLAMA, AND JACQUELINE RIO'S  
MEMORANDUM IN RESPONSE TO PLAINTIFF WAYNE BERRY'S MOTION  
IN LIMINE TO EXCLUDE EVIDENCE OF THE LOCATION OF  
ATLANTIC PACIFIC INTERNATIONAL, INC'S BUSINESS RECORDS**

Defendants Mark Dillon, Teresa Noa, Melvin Ponce, Sonia  
Purdy, Justin Fukumoto, Alfredda Waiolama, and Jacqueline Rio  
("Employees"), by and through their attorneys, Lyle S. Hosoda &  
Associates, LLC, hereby responds to Plaintiff Wayne Berry's  
Motion in Limine to Exclude Evidence of the Location of Atlantic  
Pacific International, Inc's Business Records as follows:

The only issues left for the jury's determination  
concern the damages Plaintiff is entitled to as a result of acts  
of copyright infringement that occurred between April 1, 2003 and  
June 9, 2003. Any reference to API and/or its records are

irrelevant to the issue of damages. As such, the Employees have no objection to the exclusion of such evidence.

DATED: Honolulu, Hawaii, January 10, 2006.

/s/ Lyle S. Hosoda

LYLE S. HOSODA

RAINA P.B. MEAD

CHRISTOPHER T. CHUN

Attorneys for Defendants

MARK DILLON, TERESA NOA, MELVIN

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JACQUELINE RIO